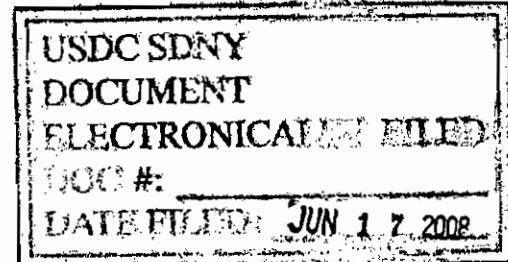


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

THE PHOENIX INSURANCE COMPANY  
Plaintiff  
-against-  
DHL EXPRESS (USA), INC. ET AL.  
Defendants

Order Declaring Case Eligible  
or Ineligible for Mediation

07 Civ. 11177 (LTS)



To the Clerk of Court:

1. This case has been determined to be:

- A. Not eligible for mediation because the case is:
  - i. Not a case in which money damages only have been sought.
  - ii. A social security case.
  - iii. A tax matter.
  - iv. A Pro Se case.
  - v. A prisoners' civil rights case.
- B. Not eligible for mediation as otherwise determined by the Court.
- C. Eligible for mediation subject to the limitations and restrictions noted below.

If the case has been determined eligible for mediation:

- i. All issues are eligible.
- ii. Only a specific issue(s) is eligible (cite issue(s)).

The entire mediation process is confidential. The parties and the Mediator may not disclose information regarding the process, including settlement terms, to the Court or to third persons unless all parties otherwise agree. The identity of the Mediator is not to be disclosed even to the Court. However, persons authorized by the Court to administer or evaluate the mediation program may have access to information necessary to so administer or evaluate the program and parties, counsel and Mediators may respond to confidential inquiries or surveys by said persons authorized by the Court to administer or evaluate the mediation program.

The mediation process shall be treated as a compromise negotiation for purposes of the Federal Rules of Evidence and state rules of evidence. The Mediator is disqualified as a witness, consultant, attorney, or expert in any pending or future action relating to the dispute, including actions between persons not parties to the mediation process.

Any timetable set by the Court contained in a scheduling order or otherwise governing the completion of discovery, motion practice or trial date, etc. is to be strictly complied with and is in no way changed by the entry of this case into the Court's mediation program.

So Ordered.

Dated: 6/17/08

New York, New York



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U.S.D.J.